

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**CHARLOTTE MICHELLE BABISHKAN
f/k/a CHARLOTTE MICHELLE DAVIS, ET AL.**

PLAINTIFFS

V.

CIVIL ACTION NO. 1:05CV0008 LTS-JMR

SOUTHERN HOMES/SOUTHERN LIFESTYLES, ET AL.

DEFENDANTS

MEMORANDUM OPINION

The Court has before it the motion to dismiss filed by Defendant Allen and Smith Insurance Agency under F.R.Civ.P 12(b)(6). For the reasons set out below, this motion will be granted.

Plaintiff Charlotte Michelle Babishkan has sued the manufacturer and seller of her mobile home, along with several other defendants, alleging personal injuries and economic damages attributable to the presence of mold. Among the defendants were Northland Insurance Company (Northland) and Allen and Smith Insurance Agency (Allen). Northland was alleged to be the insurer of the mobile home under a homeowners insurance policy. Allen was alleged to be the underwriting agency for Northland.

Beyond the identification of Allen as the underwriter for Northland, the complaint does not allege any misconduct on the part of Allen. Thus, accepting as true all of the allegations of the complaint and allowing all reasonable inferences favorable to the plaintiff, it is apparent that the plaintiff can establish no set of facts in support of her allegations that would entitle her to relief against Allen. For similar reasons, Northland was dismissed as a defendant by a judgment signed May 27, 2005.

Since the complaint alleges no wrongdoing by Allen, I find that Allen's motion to dismiss under F.R.Civ.P. 12(b)(6) is well taken, and it will be granted. An appropriate judgment of dismissal will be entered.

SO ORDERED this 28th day of March, 2006.

s/ L. T. Senter, Jr.

L. T. Senter, Jr.
Senior Judge

